

SENATE BILL

No. 30

Introduced by Senator Alquist

(Principal coauthors: Senators Corbett and Simitian)

(Principal coauthors: Assembly Members Beall, Campos, and Fong)

(Coauthor: Senator Blakeslee)

(Coauthor: Assembly Member Wieckowski)

September 8, 2011

An act to amend Sections 34162 and 34163 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 30, as introduced, Alquist. Community redevelopment.

Existing law suspends various activities of redevelopment agencies, including, among other things, refunding, restructuring, or refinancing indebtedness or obligations that existed prior to January 1, 2011, or amending or modifying existing agreements, obligations, or commitments with any entity for any purpose. Existing law authorizes a redevelopment agency to issue Emergency Refunding Bonds in specified circumstances, including, among others, when it is the only means available to the agency to avoid a default on outstanding agency bonds. Existing law also dissolves redevelopment agencies and community development agencies, as of October 1, 2011, and designates successor agencies, as defined.

The bill would, notwithstanding these restrictions, authorize a redevelopment agency, for purposes of certain bonds secured with a credit enhancement issued by a 3rd-party credit provider, to seek an extension of the credit enhancement or to modify or amend the terms

of existing agreements with the credit provider to avoid or delay the incurrence of certain types of reimbursement obligations. This bill would also authorize a redevelopment agency to issue Emergency Refunding Bonds in specified situations relating to lines of credit obtained from a financial institution.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34162 of the Health and Safety Code is
2 amended to read:
3 34162. (a) Notwithstanding Part 1 (commencing with Section
4 33000), Part 1.5 (commencing with Section 34000), Part 1.6
5 (commencing with Section 34050), and Part 1.7 (commencing
6 with Section 34100), or any other law, commencing on the effective
7 date of this act, an agency shall be unauthorized and shall not take
8 any action to incur indebtedness, including, but not limited to, any
9 of the following:
10 (1) Issue or sell bonds, for any purpose, regardless of the source
11 of repayment of the bonds. As used in this section, the term
12 “bonds,” includes, but is not limited to, any bonds, notes, bond
13 anticipation notes, interim certificates, debentures, certificates of
14 participation, refunding bonds, or other obligations issued by an
15 agency pursuant to Part 1 (commencing with Section 33000), and
16 Section 53583 of the Government Code, pursuant to any charter
17 city authority or any revenue bond law.

(2) Incur indebtedness payable from prohibited sources of repayment, which include, but are not limited to, income and revenues of an agency's redevelopment projects, taxes allocated to the agency, taxes imposed by the agency pursuant to Section 7280.5 of the Revenue and Taxation Code, assessments imposed by the agency, loan repayments made to the agency pursuant to Section 33746, fees or charges imposed by the agency, other revenues of the agency, and any contributions or other financial assistance from the state or federal government.

(3) (A) Refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011, including, but not limited to, any of the following:

~~(A)~~

(i) Refund bonds previously issued by the agency or by another political subdivision of the state, including, but not limited to, those issued by a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority.

~~(B)~~

(ii) Exercise the right of optional redemption of any of its outstanding bonds or elect to purchase any of its own outstanding bonds.

~~(C)~~

(iii) Modify or amend the terms and conditions, payment schedules, amortization or maturity dates of any of the agency's bonds or other obligations that are outstanding or exist as of January 1, 2011.

(B) Notwithstanding the restrictions set forth in this paragraph, in order to preserve the revenues and assets of an agency with outstanding bonds that were issued prior to January 1, 2011, that are secured with a credit enhancement issued by a third-party credit provider prior to January 1, 2011, that agency may modify or amend the terms of existing agreements with that credit provider if the modification or amendment would avoid or delay the incurrence of a reimbursement obligation of the agency owing to the credit provider which is immediately due and payable or which is payable over a shorter period of time than the scheduled amortization of the bonds.

(4) Take out or accept loans or advances, for any purpose, from the state or the federal government, any other public agency, or any private lending institution, or from any other source. For

purposes of this section, the term “loans” include, but are not limited to, agreements with the community or any other entity for the purpose of refinancing a redevelopment project and moneys advanced to the agency by the community or any other entity for the expenses of redevelopment planning, expenses for dissemination of redevelopment information, other administrative expenses, and overhead of the agency.

(5) Execute trust deeds or mortgages on any real or personal property owned or acquired by it.

(6) Pledge or encumber, for any purpose, any of its revenues or assets. As used in this part, an agency’s “revenues and assets” include, but are not limited to, agency tax revenues, redevelopment project revenues, other agency revenues, deeds of trust and mortgages held by the agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. As used in this part, to “pledge or encumber” means to make a commitment of, by the grant of a lien on and a security interest in, an agency’s revenues or assets, whether by resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, mortgage, deed of trust, pledge agreement, or similar agreement in which the pledge is provided for or created.

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect.

(c) Notwithstanding subdivision (a), a redevelopment agency may issue refunding bonds, which are referred to in this part as Emergency Refunding Bonds, only where all of the following conditions are met:

(1) The issuance of Emergency Refunding Bonds is the only means available to the agency to avoid a default on outstanding agency ~~bonds~~; *bonds or lines of credit obtained from a financial institution.*

(2) Both the county treasurer and the Treasurer have approved the issuance of Emergency Refunding Bonds.

(3) Emergency Refunding Bonds are issued only to provide funds for any single debt service payment that is due prior to October 1, 2011, and that is more than 20 percent larger than a level debt service payment would be for that ~~bond~~; *bond, or, in the case of a line of credit obtained from a financial institution,*

for which the line of credit expires prior to October 1, 2011, and payment is due.

(4) The principal amount of outstanding agency bonds is not ~~increased~~: increased, except if Emergency Refunding Bonds are issued for the purpose of paying off a line of credit as allowed pursuant to paragraph (3) and, in that case, only in an amount that corresponds to the amount of the line of credit payment, as well as the costs of issuance of the Emergency Refunding Bonds and a reserve fund for the Emergency Refunding Bonds.

SEC. 2. Section 34163 of the Health and Safety Code is amended to read:

34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose,

1 including, but not limited to, loan agreements, passthrough
2 agreements, regulatory agreements, services contracts, leases,
3 disposition and development agreements, joint exercise of powers
4 agreements, contracts for the purchase of capital equipment,
5 agreements for redevelopment activities, including, but not limited
6 to, agreements for planning, design, redesign, development,
7 demolition, alteration, construction, reconstruction, rehabilitation,
8 site remediation, site development or improvement, removal of
9 graffiti, land clearance, and seismic retrofits.

10 (c) (1) Amend or modify existing agreements, obligations, or
11 commitments with any entity, for any purpose, including, but not
12 limited to, any of the following:

13 (1)

14 (A) Renewing or extending term of leases or other agreements,
15 except that the agency may extend lease space for its own use to
16 a date not to exceed six months after the effective date of the act
17 adding this part and for a rate no more than 5 percent above the
18 rate the agency currently pays on a monthly basis.

19 (2)

20 (B) Modifying terms and conditions of existing agreements,
21 obligations, or commitments.

22 (3)

23 (C) Forgiving all or any part of the balance owed to the agency
24 on existing loans or extend the term or change the terms and
25 conditions of existing loans.

26 (4)

27 (D) Increasing its deposits to the Low and Moderate Income
28 Housing Fund created pursuant to Section 33334.3 beyond the
29 minimum level that applied to it as of January 1, 2011.

30 (5)

31 (E) Transferring funds out of the Low and Moderate Income
32 Housing Fund, except to meet the minimum housing-related
33 obligations that existed as of January 1, 2011, *and* to make required
34 payments under Sections 33690 and ~~33690.5, and to borrow funds~~
35 ~~pursuant to Section 34168.5; 33690.5.~~

36 (2) *Notwithstanding the restrictions set forth in this subdivision,*
37 *in order to preserve the revenues and assets of an agency with*
38 *outstanding bonds that were issued prior to January 1, 2011, that*
39 *are secured with a credit enhancement issued by a third-party*
40 *credit provider prior to January 1, 2011, that agency may seek*

the extension of the credit enhancement and, in connection therewith, may amend or modify the terms of existing agreements with the credit provider if the extension, amendment, or modification would avoid or delay the incurrence of a reimbursement obligation of the agency owing to the credit provider which is immediately due or payable or which is payable over a shorter period of time than the scheduled amortization of the bonds.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit

1 corporation, a contractual counterparty, a public body, a
2 limited-equity housing cooperative, the state, a political subdivision
3 of the state, the federal government, any private entity, or an
4 individual or group of individuals.

5 (g) Accept financial or other assistance from the state or federal
6 government or any public or private source if the acceptance
7 necessitates or is conditioned upon the agency incurring
8 indebtedness as that term is described in this part.

9 SEC. 3. This act addresses the fiscal emergency declared and
10 reaffirmed by the Governor by proclamation on January 20, 2011,
11 pursuant to subdivision (f) of Section 10 of Article IV of the
12 California Constitution.

13 SEC. 4. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 In order to allow redevelopment agencies to renew or modify
18 lines of credit and credit enhancements prior to defaulting on
19 obligations, it is necessary that these provisions take effect
20 immediately.

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